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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,775	12/22/2000	Weijun Li	031994-170	4406

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EXAMINER

JANVIER, JEAN D

ART UNIT

PAPER NUMBER

3622

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/747,775

Applicant(s)

LI, WEIJUN

Examiner

Jean Janvier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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Response To Applicant's Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Therefore, the Applicant's request for allowance or withdrawal of the last Office Action has been fully considered and respectfully denied in view of the foregoing response or new Action and thus, the current **Office Action has been made Final**.

DETAILED ACTION

Specification

The title of the invention is not descriptive so as to help one having ordinary skill in the art understand the nature of the subject matter. A new title is required that is clearly indicative of the invention to which the claims are directed.

Status of the claims

Claims 1-35 are pending in the Instant Application. Claims 1-29 are elected, without traverse, for prosecution on the merits. Hence, claims 30-35 are withdrawn from further consideration. Applicant should cancel the withdrawn claims in a future correspondence.

Claim Objections

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Claims 3, 9, 12, 13, 18, 24, 26 and 27 are objected to because of the following informalities:

Concerning claim 3, “said executable module connects to said server” should apparently be --said executable module coupled to said server - - since the “executable module” is a piece of software, not a hardware or a device. The same holds true for claim 18.

Concerning claim 9, “wherein said advertisement is presented at periodic intervals” should apparently be --wherein said advertisement is presented when the user requests the electronic content --. The same holds true for claim 24.

Concerning claims 12 and 13, in “wherein said executable program is a media player” and “wherein said executable module is a shared library”, the claims do not indicate how the “media player” and the “shared library” are used therein. In other words, some elements are missing from the claims. For examination purpose, the claims will be broadly examined. The same holds true for claims 26 and 27.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an

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international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Fuller et al.

(hereinafter Fuller), US Patent 6, 216, 112 B1.

As per claims 1-29, Fuller discloses a method and system for distributing free software, having advertisements embedded therein, to customers and compensating the authors of the software for every copy of the software illegally distributed by collecting payments from advertisers or sponsors whose advertising messages are inserted in the said software to be displayed on the customer's or user's PC screen. The software or application software, downloaded over the Internet from a web site related to a computer server 102 of fig. 1 or shipped to a user on a floppy disk or a CD ROM (Media player) to be installed on the user's PC 110 of fig. 1, is executed by the user on his PC 110 of fig. 1 subsequent to installing the software on his computer hard disk (See abstract; col. 2: 30-32). **Here, the user has restricted rights to the free software and thus, he must occasionally or periodically read advertising messages whenever he executes the said software or before using the software.**

Furthermore, application software usage by the user or the number of times (the length of time) the user has executed the application software or software is stored in a local database or data file of the user's computer 110 and periodically transmitted by said application software to a remote device or remote server or the computer server 102 of fig.1, wherein this transmitting step is performed by a local browser plug-in running on the user's PC 110 whenever the user logs into the Internet and wherein this usage information is used **to update** or refresh the

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application software or advertisements using a hook originally encoded within the application software and/or to properly compensate developers or authors of the application software. It is to be understood that users' accounts, software developers' or authors' accounts, advertisers' accounts including advertisers' billing records and compensations or fees, that must be paid to software developers or authors, are recorded or stored in databases associated with the computer server or rewards computer 102 of fig.1 (See abstract; col. 2: 39-43; col. 2: 50-67; col. 3: 46-56; col. 5: 1-4; col. 19: 9-17; col. 19: 55-65; figs. 1-5).

Moreover, under the restricted model, the user is not only required to read the advertisements embedded in the Software before he uses it, but also he may be required to interact with the displayed or played advertisements by providing answers to a survey, clicking on URLs or hyperlinks, displayed in the interface of the Software or advertisement, to visit associated vendors' web sites to receive more information about advertised products or services or even purchase the advertised products/services featured in the advertisements or the Software itself. The interaction with the one or more displayed ads may be optional (one or more advertisements or a sequence or plurality of advertisements are played or displayed during the use of the Software or until the user pays for the Software or the advertisements expire). See Col. 3: 58-62; col. 14: 62-64; **col. 15: 9-53**; col. 15: 54 to col. 16: 16; col. 13: 58 to col. 14: 16; fig. 3.

In another embodiment, under the unrestricted model, the user decides to purchase or pay for the free download or free Software or Adware program. In this case, the advertisements embedded in the Software to be first displayed **or played** before the user is allowed to use the Software are disabled. In other words, the user receives the electronic content without advertisements (col. 17: 40 to col. 18: 37)

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In all embodiments, the free Software is downloaded from server 102 to the user's computer 110, wherein established protocols and error correction and security techniques **(encryption technology)** are used to securely transmit the Software to the user's computer (col. 8: 10-19). Moreover, the software or application software, stored in the user's PC local database or data file after the download, is encrypted in order to prevent the user from altering the Software and disabling the advertising program embedded in the software and scheduled to run on the user's computing device whenever the user executes the said software (as long the user does not pay for the software as described in the restricted model) (col. 4: 16-24; col. 10: 8-43; col. 18: 27-37).

Alternatively, instead of providing software programs, the server 102 can make data available to computer users. The data can take many forms including graphic, audio, video data. For example, the data could be a digitized cartoon or video clip or financial research data compiled by a securities firm (col. 8: 4-9).

See in general col. 2: 50 to col. 5: 19; col. 8: 43 to col. 9: 22; col. 10: 8-43; col. 14: 56 to col. 15: 8; col. 18: 6-37; col. 6: 41-57; see also claims 12 and 15 of the current reference.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719.

Official Draft : 571-273-8300

08/22/05

JDJ

Jean D. Janvier

Patent Examiner

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JEAN D. JANVIER
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "Jean D. Janvier", is written over the printed name and title.